

Illegal Immigration Reform and Enforcement Act

Reporting Requirements

Background of Immigration Laws

- **SB 529**, passed in 2006, required all public employers to use E-Verify when hiring employees and prohibited employers from contracting with a vendor for the physical performance of services if the vendor did not use E-Verify when hiring employees. Additionally, this law required all public employers to use the Systematic Alien Verification of Entitlement (SAVE) program to confirm that persons who are seeking public benefits are legally eligible for such benefits based on their residency status.
- **HB 2** was passed in 2009. This law required public employers that administered public benefits to provide a report to the Department of Community Affairs identifying each public benefit that is administered by the agency and listing each public benefit for which SAVE authorization for verification has not been received.
- In 2011, **HB 87** was passed into law. This law required public employers to obtain an affidavit verifying that all vendors hired for the “physical performance of services” were using E-Verify. Public employers were then required to report this information to the Department of Audits and Accounts by December 31st. This law also phased in requirements for cities and counties to obtain affidavits (to check compliance with E-Verify) from businesses that obtain/renew licenses. This information was also required to be reported to the Department of Audits and Accounts.
- During the 2013 Session of the General Assembly, the Legislature passed **SB 160** which made several changes to the previous legal and reporting requirements.

Major Changes in SB 160

- Under the previous bills, entities were required to submit information to two different agencies, DCA and DOAA. As a result of SB 160, **all required immigration reports will now be sent to the Department of Audits and Accounts.** (Please note that this is effective with the December 31, 2013 report. If you have not submitted your prior year Public Benefits reports to DCA, you will need to contact DCA to determine how the information can be submitted.)
- Previously, entities were not required to submit reports if they did not meet the definition of public employer or if they had nothing to submit. With the passage of SB 160, **all public entities are required to report.**
- SB 160 changed the definition of 'physical performance of service.' **The definition significantly increases the vendors from which affidavits are required.**
- SB 160 specifically **defines the public benefits that are subject to the SAVE verification.**
- Affidavits and other documents received from contractors or public benefits applicants **may now be received electronically.**

Compliance with Prior Year Reporting

- 2011 was the first year that entities had to file a report to the Department of Audits and Accounts regarding contracts for the 'physical performance of services.'
- All State entities, Units of the University System of Georgia and the Georgia Military College, RESAs, and technical colleges have fully complied with the reporting requirements for 2011 and 2012.

Thank You!!!!

Reporting Requirements

- All 'agencies or political subdivisions' will be required to report the following information to the Department of Audits and Accounts no later than **December 31, 2013**:
 - Listing of contractors hired for the 'Physical Performance of Services' (O.C.G.A. §13-10-91)
 - Listing of each license or certificate issued by a county or municipal corporation to private employers that are required to utilize the federal work authorization program (E-Verify) (O.C.G.A. §36-60-6)
 - Listing of each public benefit administered by the entity for which SAVE program authorization has not been received. (O.C.G.A. §50-36-1)
- 'Agency or political subdivision' means any department, agency, authority, commission, or governmental entity of this state or any subdivision of this state. (O.C.G.A. §50-36-4)
- A **separate report** must be filed **for each agency and for each attached agency**.

All Reports are due to the Department of Audits and Accounts by December 31st.

Reporting is an annual event for every entity.

Reporting Requirements (cont.)

- For each reporting requirement, only one submission per entity is allowed. However, an entity can have multiple users of the system who can enter data for various reporting requirements.
- The reporting period is December 1, 2012 – November 30, 2013. Entities can begin submitting their reports for 2013 on December 1, 2013.
- DOAA will **no longer accept** submissions by mail, fax, or e-mail. All ‘agencies or political subdivisions’ will be required to **upload a comma delimited file or a text file** into the system or **enter the data directly** into the system. The website to access the system is <https://www.audits.ga.gov/auth>.
- If an entity does not have anything to report, or is exempt from a particular section of the report, the entity is required to indicate the requirement(s) from which they are exempt.

Title 13 – Verification of Contractors

The Bottom Line is.....

Entities are not allowed to do business with contractors for the “physical performance of services” unless the entity has verified that such contractor is authorized to use and uses the federal E-Verify program or unless they verify that the contractor has no employees.

Title 13 - Definition of “Physical Performance of Services”

- For the period December 1, 2012 – June 30, 2013, the definition primarily includes public works projects such as the building, altering, repairing, improving, or demolishing of public structures, including road projects (HB 87 – 2011)
- For the period July 1, 2013 – November 30, 2013, the definition was expanded to include any performance of labor or services for a public employer using a bidding process or by contract wherein the labor or services exceed \$2,499.99. The law excludes individuals licensed under Title 26 or 43 and those licensed by the State Bar of Georgia.

Title 13 - How do Public Employers Verify that Contractors Use E-Verify?

- Public employers are required to obtain a notarized affidavit from the contractor which states the E-Verify number of the company, the date the company received authorization to use E-Verify, and the name of project/contract.
- You can locate a copy of the affidavit on the following webpage:

http://www.audits.ga.gov/NALGAD/section_3_affidavits.html

Example of Affidavit

Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of (name of public employer) has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Name of Project

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, _____, 201__ in _____(city), _____(state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS THE _____ DAY OF _____, 201__.

NOTARY PUBLIC

My Commission Expires:

Title 13 - Exempt Contractors

- Businesses that are owned by an individual person and have no employees are not eligible to participate in the federal E-Verify program.
- If you hire such a contractor, they are not required to complete the affidavit.
- O.C.G.A. §13-10-91 states that public employers must obtain a copy of such contractor's state issued driver's license or state issued ID card. If the card was issued in a state that verifies lawful immigration, then the public employer is authorized to do business with such contractor.
- Such contractors must still be included in the report submitted to DOAA.

Title 13 - Guidance from the Attorney General - Relating to the “Physical Performance of Services”

- According to the Attorney General....
 - Obtain affidavit for all contracts awarded by **bid**, regardless of the amount **and** for all **contracts for services that exceed \$2,499.99**.
 - If you hire a individual for a service who is licensed under Titles 26 or 43 or by the State Bar of Georgia, you do not need to obtain an affidavit if such individual is doing the work solely under his or her name, and not the name of a corporation.
 - If you hire a vendor under multiple contracts, you must obtain an affidavit for each contract that meets the definition of “physical performance of services.”
 - Affidavit should be obtained before a bid is awarded or before entering into a contract when no bid is involved. A PO is a contract and therefore, the affidavit should be obtained before the PO is issued.
 - Services include maintenance agreements, print services, consulting, etc....
Always seek advice from your attorney to determine what expenses would require an affidavit.

Title 13 Report – Statewide Contracts

- The Attorney General has indicated that if DOAS has obtained the affidavit as part of the bid process, an entity may not be required to obtain an additional affidavit when a purchase order is issued under statewide contract.
- DOAS is currently working to obtain affidavits from all vendors that are on statewide contract. They are about 70% - 80% completed.
- Once completed, they will upload this information into the information sheet in TGM for all agencies to access.
- If an entity issues a PO under statewide contract that would meet the definition of “physical performance of services,” the entity would still be required to list these contracts on their report to the Department of Audits and Accounts.

Title 13 – What Must be Reported?

- O.C.G.A. §50-36-4 requires each entity to submit a report listing every contractor hired for labor or services which met the definition of “physical performance of services.”
- This report must include the following information:
 - Legal name and address of every contractor that has entered into a contract for the physical performance of services during the reporting period
 - E-Verify number of the contractor (4-6 digits)
 - Identification of contractors exempt from E-Verify
 - Date of contract between entity and contractor
- There are two additional fields we request you complete:
 - Contract number
 - Contract amount

What will be Reported for Contractors/Vendors....

- An example of the file layout for the Contractor/Vendor Report is as follows...

Name of Contractor	Contractor Address	City	State	Zip Code	Contractor E-verify #	Exempt	Date of Contract	Contract Number	Contract Amount
The Tree Service	20 North Rd	Decatur	GA	30030		Y	5/4/2013	21345	3500.00
A Good Company	123 Dover St	Destin	FL	32147	78544	N		12	45000.00
XYZ Company	44 Right way	Albany	GA	39999	11235	N		25	7800.00
John Doe	PO Box 222	Savannah	GA	31417		Y		99	100000.00

- Note: DOAA has established validation rules for these columns. These rules were provided to entities in a letter dated August 9, 2013. These rules will be included in the final instructions that are sent to entities.
- The System will be designed to alert the entity if they enter data that is not compliant with the rules. Entities will not be able to confirm their report if any data is not compliant.

Tips to Help with Title 13 Reporting...

- Identify all regular contractors/vendors you conduct business with for which an affidavit will be required. Know when the contract renewal is due and be prepared to request the affidavit in advance of the renewal. (Contractors/vendors that are hired for specific, one-time need may also require affidavits. However, these need to be assessed on a case-by-case basis.)
- Review completed affidavits upon receipt to ensure the information matches the rules being applied to each field in the collection system. Follow up with vendors immediately if the data is incorrect.
 - For example – Make sure the E-Verify number is 4-6 digits in length. Our system will flag reported E-Verify numbers that are not 4-6 digits.
- Consider entering contractor/vendor information into a spreadsheet based on the file layout in the collection system. If this is done, you will be able to convert this file to a CSV or text file and upload the file into the collection system in December.

Title 36 Reporting – Issuance/Renewal of Private Employer Business Licenses

- **The Title 36 Report only applies to counties and municipal corporations.**
- Before a county or municipal corporation can issue a business license, occupational tax certificate, or other document to certain private employers, the employer must provide an affidavit attesting that they are authorized to use and uses the E-Verify program when hiring new employees.
- In this section of the Collection System, counties and municipal corporations report each business license, certificate, etc. issued during the reporting period and includes the private employers' E-Verify number if applicable.
- State entities, Units of the University System of Georgia and the Georgia Military College, RESAs, technical colleges, Local Boards of Education, Local Authorities, and Regional Commissions **are “exempt”** from the Title 36 reporting requirements.

Title 50 Reporting – Public Benefits

- O.C.G.A. §50-36-1 requires agencies and political subdivisions to verify the lawful presence in the United States of any person who applies for public benefits as public benefits.
- This is based on how public benefits are defined in the referenced code section.
- There are 27 public benefits listed in this code section. These include....

List of Public Benefits – As Defined in O.C.G.A. §50-36-1

- Adult Education
- Authorization to conduct a commercial enterprise or business
- Business Certificate, license, or registration
- Business Loan
- Cash Allowance
- Disability Assistance or insurance
- Down Payment Assistance
- Energy Assistance
- Food Stamps
- Gaming License
- Grants
- Health Benefits
- Housing Allowance, grant, guarantee, or loan
- Loan Guarantee
- Medicaid
- Occupational License
- Professional License
- Public and Assisted Housing
- Registration of a regulated business
- Rent Assistance or Subsidy
- Retirement Benefits
- State Grant or Loan
- State Issued Driver's License and Identification Card
- Tax Certificate Required to Conduct a Commercial Business
- Temporary Assistance to Needy Families
- Unemployment Insurance
- Welfare to Work

Title 50 Reporting – Public Benefits

What is Reported?

- In this section of the Immigration Compliance Report to DOAA, each agency or political subdivision is required to report on their use of the SAVE program to verify that applicants for public benefits have a lawful presence in the United States.
- For this section of the report, we will provide a listing of the public benefits listed in O.C.G.A. §50-36-1. Entities will check which ones apply to them on one screen. On a second screen, for each benefit checked, the entity will note whether or not SAVE authorization has been received.
- If an entity provides no public benefits, the entity is required to report that they are exempt from this reporting requirement.

O.C.G.A. 50-36-1 includes a defined set of public benefits that must be considered for this reporting requirement.

Title 50 Reporting - When an Applicant Applies for Public Benefits – The Entity Must Obtain the Following...

- At least one secure and verifiable document. A listing of documents that meet the criteria for a “secure and verifiable document: can be found in O.C.G.A. §50-36-2. (It should be noted that the Attorney General maintains a listing of all approved “secure and verifiable documents” on its website. You can access the listing at: <http://law.ga.gov/immigration-reports>
- A signed and sworn affidavit verifying the applicant’s lawful presence in the United States.

Example of Affidavit

O.C.G.A. § 50-36-1(e)(2) Affidavit

By executing this affidavit under oath, as an applicant for a(n) _____
[type of public benefit], as referenced in O.C.G.A. § 50-36-1, from
_____ [name of government entity], the undersigned applicant
verifies one of the following with respect to my application for a public benefit:

- 1) _____ I am a United States citizen.
- 2) _____ I am a legal permanent resident of the United States.
- 3) _____ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: _____.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:
_____.

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in _____ (city), _____ (state).

Signature of Applicant

Printed Name of Applicant

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
___ DAY OF _____, 20___

NOTARY PUBLIC
My Commission Expires:

Use the Affidavit to Confirm that the Applicant is....

- A Citizen of the United States
- A Legal, Permanent Resident of the United States
- A Qualified Alien or Non-Immigrant under the Federal Immigration and Nationality Act. Persons that make this attestation must provide their alien number as issued by the Department of Homeland Security or other federal immigration agency.

You can locate a copy of the affidavit on the DOAA website at the following address:

www.audits.ga.gov/NALGAD/IllegalImmigrationReformandEnforcementAct.html

When are Entities Required to Use S.A.V.E.?

- State law requires entities to verify the lawful presence in the United States of any person who indicates that he/she is a qualified alien or non-immigrant.
- Entities do this through the S.A.V.E. Program.
- S.A.V.E. stands for Systematic Alien Verification of Entitlements. This program is administered by the United States Customs and Immigration Service. For information regarding the program, please access the following website: <http://www.uscis.gov/portal.site/uscis>.

Entities are authorized to issue benefits before they have received verification of eligibility through S.A.V.E. provided they have obtained the affidavit and secure and verifiable. Benefits must cease if the S.A.V.E. verification proves the applicant is not eligible for benefits.

Key Points to Remember...

Submission of Documents

- Original documents are not required. Applicants may provide copies.
- Originals or copies may be submitted in person, by mail, or electronically.
- Electronic Submissions shall include submission by facsimile, internet, electronic texting, or any other electronically assisted method approved by the entity.

When to Obtain Documents

- Obtain documents from first time applicants.
- Entities are not required to obtain documents/affidavit from any person renewing an application for the same benefit provided the applicant had previously submitted the required documents.
- If the person is seeking an additional public benefit from the same entity, the entity does not need to obtain the documents/affidavit provided the applicant has previously submitted the required documents.

Title 50 - Reporting Requirements...

- An annual report is due to the Department of Audits and Accounts by December 31st of each year.
- The annual reporting period ends November 30th of each year. Entities may begin submitting their reports as early as December 1st.
- Early submission is encouraged in the event there are errors with your submission.
- The report is submitted through our collection system. You can access the collection by going to <https://www.audits.ga.gov/auth>.
- When you enter the section of the report relating to public benefits, you will see the list of 27 benefits. Mark the benefits your entity provides. On the following screen, indicate whether the entity has received S.A.V.E. program authorization to verify that qualified aliens have a lawful presence in the United States.
- The report has not been submitted until you click “confirm.”

Title 50 Reporting – Public Benefits

Example of the Screen that Entities will See in Collection System

Screen 1

Select the benefits:

- Adult education
 - Authorization to conduct a commercial enterprise or business
 - Business certificate, license, or registration
 - Business loan
 - Cash allowance
 - Disability assistance or insurance
- Down payment assistance
- Energy assistance
- Food stamps

Next >

Screen 2

For the benefits selected, does entity have S.A.V.E authorization?

Adult education	Yes <input type="radio"/>	No <input type="radio"/>
Down payment assistance	Yes <input type="radio"/>	No <input type="radio"/>
Energy assistance	Yes <input type="radio"/>	No <input type="radio"/>

Confirm

Title 50 - Final Points...

- All agencies and political subdivisions are required to submit this report.
- However, colleges and universities and technical colleges will not be required to submit an individual report as the report will be submitted for the systems as a whole by the Board of Regents and the Technical College System of Georgia.
- If you do not provide any public benefits, please indicate so on the report. Once you note that and click “confirm,” you will have met your reporting requirements.

Need Assistance?

- The website for Immigration Reporting is:
www.audits.ga.gov/NALGAD/IllegalImmigrationReformandEnforcementAct.html
- On this website, you can find:
 - Required Affidavits
 - Summary of Reporting Requirements
 - Guidance from the Attorney General
 - Answers to Frequently Asked Questions
- DOAA is **creating a video** to summarize the various reporting requirements and to provide a demonstration of the collection system. Video will be **available by November 15, 2013** and can be accessed through our website at www.audits.ga.gov.
- If you have a question email ImmHelp@audits.ga.gov (This is a new e-mail address from the prior years.)

Thank you for your time
and attention!